

d.) REMARKS

The claims are 48-49, 51, 54-58, 61, 63, 64 and 67-73 with claim 48 being independent. Claims 54, 61, and 67 have been amended solely as to matters of form unrelated to patentability. Claims 53 and 60 have been cancelled. The subject matter of claim 60 has been added to claim 48.

Support for the amendment to claim 48 is found in claim 60 ( $10^3$ -  $10^8$  ohm volume resistivity); page 133, lines 11-13; page 57, lines 4-7 (a wax in amounts 0.1 - 20 wt. % of Magnetic toner); page 107, lines 8-12 (Magnetic toner particle size 4-8 $\mu$ m); page 196, Table 2, Magnetic Toner 3 (0.20% isolated iron-particles); page 47, line 10 (1.50% isolated iron particles); page 90, line 8 (0.8  $\mu$ m volume-average size of electroconductive fine powder); and page 92, line 9 (volume average particle size of electroconductive fine powder is 5  $\mu$ m or smaller).

On page 92, line 9, a typographical error has been corrected. The volume average particle size referred to is the electroconductive fine powder, not the developer. The minimum size of the electroconductive fine powder is discussed on page 190. The maximum size value considerations of the electroconductive fine powder are discussed on page 90, line 25 to page 92, line 9. Further, the electroconductive fine powders Nos. 1-3 and 5 on pages 184-187 are in the range of 0.8 - 5  $\mu$ m (i.e. 1.3 - 3.6  $\mu$ m).

The objection as to new matter on page 80, line 7 has been resolved by appropriate amendment. The objection to "Asker C hardness" has been resolved by amendment of claim 48. The trademarks as employed in the specification have been capitalized. Typographical errors on pages 80 and 133 have been corrected, as required.

The objection to claims 48, 54, 60, 61 and 67 has been resolved by appropriate amendment or cancellation. Amended claim 54 is supported on page 139, line 26 to page 140, line 8 and page 148, lines 17-20. Amended claim 67 is supported on page 132, lines 6 and 7.

Accordingly, it is believed all the formal objections to the specification and claims have been resolved.

The art rejection to claim 53 has been resolved by its cancellation.

Claims 48, 49, 51, 53-58, 60, 63, 64 and 67-73 were rejected as anticipated by Nagase '681, combined with EP '470. The rejection is respectfully traversed.

Initially, claim 48 has been amended to recite certain preferred isolated particles, toner size, electroconductive fine powder size and wax proportion parameters, as shown in Table 2, page 196. The present claimed magnetic toner moiety now excludes magnetic toners having a performance evaluation in Table 3, page 216 in which two or more items are ranked as "C". Accordingly, magnetic toners in Examples 4, 5, 9, 11, 12, 13 and 14 are beyond the scope of claim 48. In Table 3, Toner Consumption for Examples 4, 5, 9 and 11-14 ranges from 40 - 45 mg/sheet, which is above the corresponding values for inventive Examples 1-3, 6-8, 10 and 15-17. Inventive Example 10 has a consumption of 41 mg/sheet but it has no "C" values. Accordingly, the present claimed invention provides superior image density, fog prevention, long-term operation and half-tone image formation under all environments.

The cited references fail to teach the present claimed invention nor the unexpected performance imparted thereby and, therefore, cannot act as an anticipation.

The obviousness-type double patenting rejection over claims 1-26 of Hashizume '387 and Magome '452 in view of Ohba is respectfully traversed.

The claims of Hashizume '387 fail to recite any of the weight average particle size of the magnetic toner; the amount of isolated iron-containing particles and the wax content of the magnetic toner. Further, the claims of Hashizume '387 recite dynamic hardness and saturation magnetization features which are not recited in the instant claims.

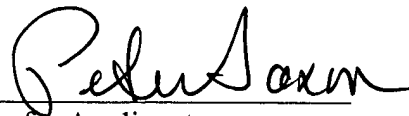
The claims of Magome '452 and Ohba '800 fail to recite the instant volume-average particle size and wax content. Further, the claims of Magome recite magnetization intensity and THF insoluble matter, which are not recited in the instant claims.

Therefore, key parameters of the instant claims are not recited in Hashizume and Magome, which parameters serve to render the present claims distinct.

Accordingly, the claims should be allowed and the case passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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